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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASHLEY GJOVIK,

Plaintiff,

V.

APPLE INC.,

Defendant.

Case No. 23-cv-4597-EMC

**[PROPOSED] ORDER GRANTING
DEFENDANT APPLE INC.'S MOTION
TO DISMISS PLAINTIFF ASHLEY
GJOVIK'S FIFTH AMENDED
COMPLAINT**

Judge: Honorable Edward M. Chen
Dept: Courtroom 5, 17th Floor
Date: January 2, 2025
Time: 1:30 p.m.

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1 Pending before the Court is Defendant Apple Inc.'s Motion to Dismiss Plaintiff's Fifth
2 Amended Complaint pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Having
3 considered the relevant papers and pleadings on file with the Court in this matter, as well as the
4 arguments of Plaintiff and Apple's counsel, the Court **DISMISSES, with prejudice**, Plaintiff's
5 Fifth Amended Complaint, leaving only the claims not dismissed in the Fourth Amended
6 Complaint, for failure to comply with the Court's October 1, 2024 order (Dkt. 112) requiring
7 Plaintiff to file a Fifth Amended Complaint limited to 75 pages and its subsequent October 25, 2024
8 order (Dkt. 123) requiring Plaintiff to do so by November 5, 2024.

9 Accordingly, Defendant Apple Inc.'s Motion to Dismiss is **GRANTED**, and Plaintiff's
10 Fifth Amended Complaint is **DISMISSED with prejudice**, leaving only the claims not dismissed
11 in the Fourth Amended Complaint. The Court thus dismisses with prejudice the claims asserted in
12 the Fifth Amended Complaint that the Court previously dismissed with leave to amend in its
13 October 1 Order. The Court further orders the case to proceed on only those claims in the Fourth
14 Amended Complaint that Apple did not move to dismiss or that the Court permitted to proceed.
15 Within 28 days of this order, Apple shall file an answer to the Fourth Amended Complaint, but
16 only with respect to those claims that Apple did not move to dismiss or that the Court permitted to
17 proceed.

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19 **IT IS SO ORDERED**

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21 Dated: _____

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23 HON. EDWARD M. CHEN
24 U.S. DISTRICT COURT JUDGE
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